

AO88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the
United States District Court

District of the Northern Mariana Islands

JOHN BRADY BARRINEAU,

Plaintiff,

V.

SUBPOENA IN A CIVIL CASE

PROMARINE TECHNOLOGY and CABRAS
 MARINE CORPORATION,

Defendants.

CASE NUMBER:¹ CIV05-0028

TO: DR. JANET L. McCULLOUGH
 Post Office Box 5218
 Saipan, MP 96950

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

SEE ATTACHED SUBPOENA DUCES TECUM.

PLACE **CARLSMITH BALL LLP**
Carlsmith Ball LLP Building
Capitol Hill, Saipan, MP 96950

DATE AND TIME
September 19, 2006
10:00 a.m.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

David Ledger
Attorneys for Defendant Cabras Marine Corporation

September 7, 2006

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

David Ledger, Esq.
CARLSMITH BALL LLP
Carlsmith Ball LLP Building (671) 472-6813 x303
Capitol Hill, P.O. Box 5241
Saipan, MP 96950

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

*AO88 (Rev. 1/94) Subpoena in a Civil Case

PROOF OF SERVICE

	DATE	PLACE
SERVED	9/07/06	Capitol Hill
SERVED ON (PRINT NAME)		MANNER OF SERVICE
Dr. Janet L. McCullough		Personally served
SERVED BY (PRINT NAME)		TITLE
MARYLYN J. CAMACHO		Receptionist

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on 9/07/06
DATE

M. Camacho
SIGNATURE OF SERVER
P.O. BOX 5241 Capitol Hill
ADDRESS OF SERVER
Saufer, MP 96950

Rule 45, Federal Rules of Civil Procedure, Parts C & D:**(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,
(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

CARLSMITH BALL LLP
DAVID LEDGER
Carlsmith Ball LLP Building
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Post Office Box 5241
Saipan, MP 96950-5241
Tel No. 670.322.3455
Attorneys for Defendant
Cabras Marine Corporation

IN THE UNITED STATES DISTRICT COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

JOHN BRADY BARRINEAU,
Plaintiff,

vs.

PROMARINE TECHNOLOGY and
CABRAS MARINE CORPORATION,
Defendants.

CIVIL ACTION NO. CV05-0028

**SUBPOENA DUCES TECUM;
CERTIFICATE OF SERVICE**


TO: DR. JANET L. McCULLOUGH
Post Office Box 5218
Saipan, MP 96950

On behalf of Defendant Cabras Marine Corporation in the above-entitled action, a records deposition will be taken at the law offices of Carlsmith Ball LLP, Carlsmith Ball LLP Building, Capitol Hill, Saipan, MP 96950 on **Tuesday, September 19, 2006 at 10:00 o'clock a.m.** Please refer to the following information and list of documents concerning this deposition.

1 Any and all records, reports, notes, diagnostic results, billing materials and any other
2 form of documents (whether in paper, electronic or other form) in your possession, custody or
3 control relating to your examination, diagnosis and/or treatment of John Brady Barrineau during
4 the last five years from the date of this Subpoena.
5

6 DATED: Hagåtña, Guam, September 7, 2006.

7 CARLSMITH BALL LLP

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9 DAVID LEDGER
10 Attorneys for Defendant
11 Cabras Marine Corporation
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 7th day of August 2006, I will cause to be served, via electronic filing, a true and correct copy of **SUBPOENA DUCES TECUM** upon the following Counsels of record:

William M. Fitzgerald, Esq.
Law Office of William M. Fitzgerald
1st Floor, Macaranas Building
Post Office Box 909
Saipan, MP 96950

Bruce Berline, Esq.
Law Office of Bruce Berline
1st Floor, Macaranas Building
Post Office Box 5682 CHRB
Garapan, Saipan MP 96950

and via hand delivery to:

Thomas C. Sterling, Esq.
Blair, Sterling, Johnson, Moody, Martinez & Leon
Guerrero, P.C.
Suite 1008, Pacific News Building
238 Archbishop Flores Suite
Hagåtña, Guam 96910

DATED: September 7, 2006.


DAVID LEDGER